

BEFORE THE FEDERAL ELECTION COMMISSION

MAR 23 2007

**SENSITIVE**

In the Matter of )

MURs 5817, 5827, 5829, 5836,  
5847, 5852, 5858, and 5863 )

CASE CLOSURE UNDER THE  
ENFORCEMENT PRIORITY SYSTEM

DEBATE CASES (From The '06 CYCLE) )

**GENERAL COUNSEL'S REPORT**

Under the Enforcement Priority System, matters that are low-rated  
matters) and are deemed inappropriate for review.

are forwarded to the Commission with a recommendation for dismissal. The

Commission has determined that pursuing low-rated matters compared to other higher rated  
matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to  
dismiss these cases.

The Office of General Counsel scored MURs 5817, 5827, 5829, 5836, 5847, 5852,  
5858, and 5863 as low-rated matters. In MURs 5817, 5836, 5847, 5852, 5858, and 5863, the  
complainants challenged whether the debate staging organizations and entities used and/or  
properly construed pre-established objective criteria in order to determine whether a  
particular candidate could participate in their debate.<sup>2</sup> In MURs 5827 and 5829, the

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<sup>2</sup> 11 C.F.R. § 110.13(c) provides that "[f]or all debates, staging organization(s) must use pre-established objective criteria to determine which candidates may participate in a debate. For general election debates, staging organization(s) shall not use the nomination by a particular political party as the sole objective criterion to determine whether to include a candidate in a debate."

1 complainants claimed that the staging organization set up the seating for the debate in order  
2 to advance one candidate over another in violation of 11 C.F.R. § 110.13(b)(2).<sup>3</sup>

3 In MURs 5817, 5836, 5847, 5852, 5858, and 5863, the complainants were third party  
4 candidates who appeared to receive marginal electoral support and evidenced little to no  
5 campaign organization. The staging organizations and entities in these cases claimed they  
6 applied pre-established objective criteria in assessing whether to include or exclude  
7 candidates from their debates.

8 In MURs 5827 and 5829, the complaints centered on the favorable seating assigned to  
9 one candidate's supporters over another. The respondents in these matters asserted that the  
10 seating design was unintentional and in any case did not violate the Commission's  
11 regulations. Additionally, a claim that a \$200 corporate contribution was received by the  
12 staging organization was refuted.

13 In reviewing the allegations and responses in these matters, and in furtherance of the  
14 Commission's priorities and resources, relative to other matters pending on the Enforcement  
15 docket, the Office of General Counsel believes that the Commission should exercise its  
16 prosecutorial discretion and dismiss these matters. *See Heckler v. Chaney*, 470 U.S. 821  
17 (1985).

### 18 RECOMMENDATION

19 The Office of General Counsel recommends that the Commission dismiss  
20 MURs 5817, 5827, 5829, 5836, 5847, 5852, 5858, and 5863, close the files effective two  
21 weeks from the date of the Commission vote, and approve the appropriate letters. Closing

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<sup>3</sup> 11 C.F.R. § 110.13(b) provides that "[t]he structure of debates staged in accordance with this section and 11 CFR 114.4(f) is left to the discretion of the staging organization(s), provided that: (1) Such debates include at least two candidates; and (2) The staging organization(s) does not structure the debates to promote or advance one candidate over another."

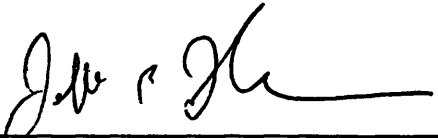
these cases as of this date will allow CELA and General Law and Advice the necessary time  
to prepare the closing letters and the case files for the public record.

Thomasenia P. Duncan  
Acting General Counsel

3/22/07  
Date

BY:

  
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Complaints Examination  
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Complaints Examination  
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Attachments:

Narratives in MURs 5817, 5827, 5829, 5836, 5847, 5852, 5858, and 5863

27044162554

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5 **MUR 5836**

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7 **Complainant:** Phil Maymin

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9 **Respondents:** The Stamford Chamber of Commerce

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13 **Allegations:** The complainant alleges that he was improperly excluded from a debate on  
14 October 18, 2006 involving candidates for Congress from the 4<sup>th</sup> Congressional District  
15 of Connecticut. The respondent, The Stamford Chamber of Commerce, sponsored the  
16 debate. The Stamford Chamber of Commerce indicated to the complainant that their  
17 policy for debate participation follows the League of Women Voters criteria. Also, they  
18 have historically allowed third party candidates to participate provided they meet their  
19 debate standards. However, on this occasion, they declined Mr. Maymin's request to  
20 participate in the debate. The complainant asserts the Stamford Chamber of Commerce  
21 violated 11 C.F.R. § 110.13 because they failed to use pre-established objective criteria to  
22 determine which candidates may participate in a debate.

23  
24 **Response:** The respondent applied six criteria in order to determine eligibility to  
25 participate in its debate. Specifically, the respondent looked at evidence of a formal  
26 campaign, whether the candidate received 10% of the vote in a public opinion survey,  
27 whether the candidate previously held elected office, whether the candidate was the  
28 nominee of the political party that received at least 10 % of the vote in the most recent  
29 election, whether the candidate sought the nomination of a political party within the last  
30 eight years in a primary election to the same office he or she is seeking, or whether the  
31 candidate sought the same office during the prior eight years and received at least 30% of  
32 the vote in the general election. In looking at whether the candidates showed evidence of  
33 a formal campaign the respondent contacted the Connecticut Secretary of the State and  
34 the local town clerk for a list of registered candidates. The respondent was informed that  
35 two candidates were registered for the election: Democrat Diane Farrell and Republican  
36 Christopher Shays. After speaking to the complainant, the respondent questioned him  
37 about his campaign and found that he did not satisfy any of the criteria relating to  
38 campaign operations and voter support and, thus, he did not qualify for the debate. As an  
39 illustration, the respondent noted that the respondent failed to meet the first criterion  
40 requiring the presence of a campaign headquarters in a publicly accessible site, other than  
41 the candidate's home or place of business. Additionally, the respondent noted that the  
42 complainant had an out-of state campaign telephone number (i.e., a voice-mail service  
43 located in Washington state).

44  
45 **General Counsel's Note:** It should be noted that the complainant, Phil Maymin, was not  
46 on the ballot for the 2006 election, but did receive 1% of the vote.

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**Date complaint filed: October 10, 2006**

**Response filed: November 22, 2006**

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